

LEHIGH VALLEY BOARD OF HEALTH

Minutes of Meeting

June 8, 2009

David Lyon called the June 8, 2009 Lehigh Valley Board of Health meeting to order at 6:00 p.m., in Northampton County Council Chambers, on Monday, June 8, 2009.

Board members present:

David T. Lyon, Chairman
David G. Beckwith
Robert B. Black
Eric Gertner
Vicky Kistler
Carol A. Kuplen
Judith K. Maloney
Ilene S. Prokup
John F. Reinhart
Halyna I. Stegura

Facilitator: None

County Council Members: None

Northampton County Representative: John Stoffa, County Executive; Ross Marcus, Director of Human Services; Jill Mancini, Assistant Solicitor for Northampton County

Foundations: None

Press: Stephanie Jones, East Penn Press

Courtesy of the Floor

David Lyons asked if anyone from the public wished to make a comment, provide information or opinions.

Steven T. Krajewski stated he wanted to commend Vicky Kistler and the Allentown Board of Health for being on top of things with the H1N1 pandemic by getting information out to the newspapers.

Approval of Minutes from May 11, 2009 and May 28, 2009

David Lyons advised there were two sets of minutes for approval and they would be posted on the RenewLV website for the public to access.

Ilene Prokup and David Beckwith moved that the minutes of the May 11, 2009 regular board meeting be accepted. The minutes were accepted by unanimous voice vote.

David Beckwith and Robert Black moved the minutes of the May 28, 2009 special board meeting be accepted. The minutes were accepted by unanimous voice vote.

Health Commission Meeting - June 3, 2009

Ilene Prokup stated the Lehigh Valley Health Commission met on June 3, 2009 at the Lehigh County Government Center, however, it convened and adjourned very quickly due to the lack of a quorum.

David Lyon advised the meeting had been rescheduled for 6:30 p.m., Tuesday, June 16, 2009, at the Lehigh County Government Center. He noted, for those who may not be aware, that the Board of Health was accountable to the Lehigh Valley Health Commission which was composed of the nine Commissioners from Lehigh County and the nine members of the Northampton County Council.

Upcoming NALBOH Meeting

David Lyon reminded everyone of the upcoming NALBOH meeting being held in Philadelphia from July 1- 3, 2009. He indicated the board was now a member and hoped some board members would be able to attend some of the meetings, indicating there were sessions just for new boards of health.

Robert Black advised June 9, 2009 was the deadline for the early bird registration and noted they also had a daily registration fee if someone did not want to attend for the three days.

Board Education

David Lyon stated he received suggestions regarding educational topics and sewer enforcement seemed to be a topic everyone felt would be very worthwhile. He was going to tentatively plan on organizing an educational program to be part of their regular board meeting in August or September.

John Reinhart suggested the possibility of meeting on a retreat type basis for a day, or part of a day, because he felt it could be valuable and allow them to get to know each other in a less formal setting. He indicated the public would be invited as there would probably be more than five members in attendance.

David Lyon proposed doing that for their August meeting and have the information distributed in a week or two to allow the members time to set up their calendars.

Administrative Office Space

David Lyon advised Robert Black and Ilene Prokup have been looking at some office spaces in the Fowler Building, a site in Allentown and one in Easton. He noted the benefit of the Fowler Building was that it was centrally located, but would consider other options, preferably donated or discounted rental costs.

Robert Black stated he would be meeting with Paul Pierpoint's associate next week regarding the Fowler Building and asked if there had been any discussions pertaining to rent.

John Reinhart advised Dr. Scott was very interested in helping the board out and might allow them to use that space for approximately twelve months at no cost. He further advised Dr. Scott was also interested in the potential partnering of the board's efforts with their Allied Health and Science Division nursing program, which could help with future rental and costs.

Report of Northampton County Solicitor

Jill Mancini stated she believed the questions emanated from the board's RFP for a health consultant. She indicated the board was subject to the Sunshine Law and the selection process was subject to those requirements in that, without releasing any privilege or confidential information, the public should be allowed to participate. She further advised the Executive Session exception within the Sunshine Law did not apply in this case because they were not dealing with an employee, but an independent contractor. She noted there were also procurement regulations to be followed and they should be very careful not to give anyone an unfair advantage and that every person who submitted a proposal, assuming that the proposal was conforming, had the same opportunities for post opening discussions.

Vicky Kistler asked for clarification as to whether it was or was not appropriate to discuss the RFPs in an Executive Session. Jill Mancini replied the Executive Session exception to the Sunshine Law applied when discussions were held regarding personnel matters with respect to employees. Therefore, in this case, the health consultant was an independent contractor and the Executive Session exception did not apply.

Jill Mancini stated the meeting held to review the RFPs was proper because information contained in any RFP was not a matter of public record, but the final contract would be. She further stated the board was free to, and should, discuss in an open forum any concerns they had with the final candidates before making a selection.

Jill Mancini advised when an RFP was rejected because it was not in compliance or it was clear that the services required could not be provided, written notification would have to be provided to them. Therefore, the board acted correctly in their rejection of one of the RFPs that were submitted.

David Lyon stated the two proposers who were chosen for health consultant were Drexel University School of Public Health and the Center for Public Health and Practice at the University of Pittsburgh School of Public Health. He further stated the two proposers chosen for solicitor were the firms of Gross McGinley and Kings Spry.

David Lyon asked Jill Mancini to explain what constituted a conflict of interest and the respective obligations of the board members to disclose such conflicts or recuse themselves. She replied a conflict of interest arose when a person, their family member or close associates stood to gain financially by an award of a contract or when there was an appearance of impropriety.

David Lyon asked if a faculty appointment could be considered a conflict of interest. Jill Mancini advised that in itself was not a conflict of interest, but in the interest of being open, the fact should be disclosed. In a case where a person did not feel they had a conflict of interest, but someone else did, the solicitor could present the facts to the State Ethics Commission for their opinion.

Selection of Board of Health Solicitor

After some discussion, it was agreed the two health consultant proposers should be presented at one meeting and the two solicitor proposers at another, with the solicitor to be chosen first. The meeting for the solicitors would be scheduled for June 23, 2009, with a second date of June 25, 2009, at the Red Cross Building and the meeting for the consultants was tentatively scheduled for the July 13, 2009 board meeting. It was suggested that Jill Mancini work with Cathy Roseberry, Chief Deputy Solicitor for Lehigh County, in drawing up a contract for a solicitor.

Other Business

It was suggested that every member of the Health Commission should be contacted to encourage them to attend the next meeting and to emphasize there were two items of business that had to be acted upon in order for this board to proceed. The first was the approval of the budget, which was approved by the board on May 28, 2009 and both philanthropies - Pooled Trust and Two Rivers. The second was to designate Two Rivers as the fiduciary intermediary. He noted other items that possibly could be considered were the appointment of a treasurer and the official appointment of Vicky Kistler and Judith Maloney as ex-officio members of this board.

John Reinhart asked, for the record, who were the members of the Health Commission who were not in attendance at the meeting and requested any member who could attend the next meeting report back what took place and those members who were in attendance.

David Lyon stated the members of Northampton County Council who were present were Ann McHale, Ron Angle, John Cusick and Peg Ferraro. He further stated he did not know the members of the Lehigh County Commissioners who were present, but there were only two who did not show up and they had informed Percy Dougherty ahead of time that they would not be attending.

Additional Public Comment

Gloria Hamm, Lehigh County Commissioner and a member of the Lehigh Valley Health Commission advised she thought the Board of Health was a provisional committee so everything they did had to be approved by both Counties and if that was the case, then perhaps some authority could be given to them so they did not have to come before the Health Commission with everything.

Dave Lyon advised the Northampton County Interim Board of Health was provisional, but the Board of Health was permanent.

With regard to the Health Commission, Gloria Hamm stated it was reported on a blog that Councilman Lamont McClure was not in favor of the health department and would not attend any meetings. Therefore, if he did not attend the meeting and there currently was a vacancy, they were already down to seven people so it may be difficult to get a quorum.

David Lyon commented the legislators in both Counties were obligated to support what the majority decided and seven out of nine Northampton County Council members voted in favor of the creation of this board and a bi-County health department. As far as the commission empowering the board, he noted there were some things under Act 315, the Commission could not delegate to the board. Additionally, if getting 18 members together for a meeting was too difficult, consideration may be given to asking the State for a reduction in the membership.

After some discussion with regard to some members of the Health Commission perceiving the Board of Health as a provisional entity, it was decided that a copy of Act 315 with some bullet points and notes that indicated what the Board of Health was allowed to do and not do should be sent to them.

Vicky Kistler stated the confusion could come from the premise that the municipalities would, in the end, have the option of opting in or opting out of the health department so the board was not provisional, but their participation was.

John Reinhart advised the fact that some members of the commission were labeling them as provisional in whatever context was disturbing to him because they were about to fill two key appointments and it needed to be straightened out quickly. He also suggested, if the next health commission meeting did not come off as scheduled, a press conference should be held by this board to disclose that they could not move forward with the very serious public assignment they had been given until they got the support of the health commission and to name those individuals who were not present.

David Lyon stated based on the vote to create this board, he did not understand why the support was not forth coming from the health commission, especially since in all his years involved in the process, he had never heard anyone say they did not want a health department. He further stated of the counties that had health departments in Pennsylvania, this was the only one that was created by the legislators. Therefore, he hoped next Tuesday, they would remember they appointed us and we are privileged to be given the opportunity to develop something that was incredibly important to the residents of the Valley, but they need to follow through and supply the support so the job they appointed them to do could be done.

During a discussion regarding the appointments of a solicitor and consultant being held up by the commission because they might feel the board was not permitted to do so, David Lyon indicated under Act 315, it was within the board's responsibility.

Ross Marcus wanted to state for the record that there was currently no vacancy on the Northampton County Council because Diane Neiper had not yet resigned.

If that was the case, John Reinhart advised this board had to decide not only how to get as many people as possible to attend the meeting, but what they would do if the votes were not there. Robert Black stated he would support the idea of holding a press conference Wednesday morning because the mere thought that this process could be sabotaged politically violated the spirit of the creation of this board and the public should be informed.

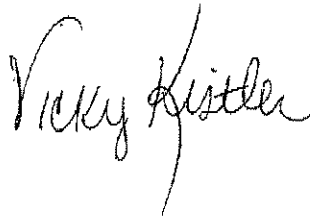
A discussion was held as to whether they should request a treasurer at this meeting since there was difficulty getting a quorum and it was determined that only after the health department was established and public money was being used, a treasurer would have to be appointed.

A discussion was held with regard to voting requirements of the commission, it was revealed that Act 315 reflected that no action shall be taken by the joint county health commission without the concurrence of a majority of the County Commissioners of each participating county, with the only exception being the election of the chair of the health commission.

Steven Krajewski suggested all the board members make phone calls to the members of the commission to remind them that they had a responsibility to protect the public health and convince them to attend the meeting.

Dave Lyon advised he had a communication from Steven Bliss of RenewLV which indicated he would like to get together to talk about how he and his organization could be helpful in mobilizing the public's support.

Dave Lyon asked for a motion to adjourn. Halyna Stegura made the motion and with no objections, the meeting was adjourned.

A handwritten signature in cursive script that reads "Vicky Kistler". The signature is written in dark ink and is centered on the page.